

### **REMARKS**

This paper is filed concurrently with a Request for Continued Examination and further in response to the Final Office Action mailed July 18, 2008 (hereinafter "Office Action") in connection with the above-referenced patent application. By virtue of this response, Claims 1, 12, 17, 28, 31, and 42 are amended for purposes of clarity. Claims 1-12, 14-28, and 30-42 remain pending.

Referring now to the Office Action, Claims 1-4, 6-12, 14-20, 22-23, 26-28, 30-37, 40 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,185,619 to Joffe et al. (hereinafter Joffe et al.) in view of U.S. Patent No. 6,718,390 to Still et al. (hereinafter Still et al.). Claims 5, 8, 21, 24, and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Joffe et al. in view of Still et al. and further in view of U.S. Patent No. 6,185,598 to Farber et al. (hereinafter Farber et al.). Claims 9, 25, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Joffe et al. in view of Still et al. and further in view of PGPub 2002/0052942 to Swilden et al. (hereinafter Swilden et al.). Claim 41 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Joffe et al. in view of Still et al. and further in view of U.S. Patent No. 7,058,706 to Lyer et al. (hereinafter Lyer et al.).

Applicants wish to thank the Examiner for his time during the interview conducted on January 8, 2009. During the interview, applicant's representative noted that neither Joffe et al. nor Still et al., alone or in combination, taught, disclosed, or suggested a number of recitations in the claims. No agreement was reached. However, the Examiner indicated that the arguments presented may be persuasive, but should be submitted in writing for further consideration.

In view of the following remarks, applicants request consideration and allowance of pending Claims 1-12, 14-28, and 30-42.

**A. Claims 1-4, 6-12, 14-20, 22-23, 26-28, 30-37, 40 and 42 Are Not Obvious Over Joffe et al. in View of Still et al.**

As indicated above, Claims 1-4, 6-12, 14-20, 22-23, 26-28, 30-37, 40 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Joffe et al. in view of Still et al. Applicants respectfully traverse this rejection.

Independent Claims 1, 17, and 31, as amended for purposes of clarity, recite:

1. A process implemented across a network for providing a link to a preferred network server corresponding to a preferred mirror instance within a plurality of network servers corresponding to a plurality of mirror instances of a content store, comprising the steps of:

providing a server application at a first web server, and a client application at a client terminal, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the client terminal is connected to the first web server by a first connection, wherein the client terminal is connected to the network through the first web server, and wherein the server application and the client application communicate to provide localization decisions without user interaction, and to provide links to localized content from the server application to the client application;

determining localization information for each mirrored instance of the content store, wherein the localization information comprises the number of hops and latency from each mirrored instance of the content store to any of the first web server and the client terminal;

storing the determined localization information in a localization database; receiving a request at the first web server over the first connection from a user at the client terminal, the request corresponding to mirrored content;

querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror instance for the client terminal, the rules comprising a function of the stored hop information and the stored latency information between each of the mirror instances and the client terminal;

dynamically generating a web page that includes a selectable localized link to the determined preferred mirror instance through the server application at the first web server; and

transmitting the dynamically generated web page from the first web server to the client terminal.

17. A process implemented across a network for providing a link to a preferred network server corresponding to a preferred mirror instance within a plurality of network servers corresponding to a plurality of mirror instances of a content store, comprising the steps of:

providing a server application at a first web server, and a client application at a client terminal having a unique address, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the client terminal is connected to the first web server by a first connection, wherein the client terminal is connected to the network through the first web server, and wherein the server application and the client application communicate to provide localization decisions without client user interaction, and to provide links to localized content from the server application to the client application;

determining localization information for each mirrored instance of the content store, wherein the localization information comprises the number of hops and latency from each mirrored instance of the content store to any of the first web server and the client terminal;

storing the determined localization information in a localization database;

receiving a request at the first web server over the first connection from the client terminal, the request corresponding to a link to the content store;

querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror instance for the client terminal, the rules comprising a function of the stored hop information and the stored latency information between each of the mirror instances and the unique address;

dynamically generating a web page that includes a selectable localized link to the determined preferred mirror instance through the server application at the first web server; and

transmitting the dynamically generated web page from the first web server to the client terminal.

31. A proximity resource allocation system implemented across a network for providing a link to a preferred network server within a plurality of network servers corresponding to a plurality of mirror instances of a content store from which a user terminal having a unique address is connectable to the preferred network server, comprising:

a server application at a first web server that communicates with a client application at the user terminal, the first web server comprising a server other than a server corresponding to the content store and the network servers corresponding to the mirror instances, wherein the user terminal is connected to the first web server by a first connection, wherein the user terminal is connected to the network through the first web server, the server application to provide localization decisions without user interaction, and to provide links to localized content from the server application to the client application; and

a localization database comprising storage of localization information for each mirror of the content store, wherein the localization information comprises the number of hops and latency from each of the plurality mirrors to any of the first web server and the user terminal;

the server application for receiving a request sent to the first web server over the first connection from the user terminal, the request corresponding to a link to the content store, for querying the localization database and applying a set of rules to the stored localization information through the server application at the first web server to determine a preferred mirror for the user terminal without user interaction, the rules comprising a function of the stored hop information and the stored latency information between each of the mirrors and the unique address, for dynamically generating a web page that includes a selectable localized link to the determined preferred mirror through the server application at the first web server,

and for transmitting the dynamically generated web page from the first web server to the user terminal.

Applicants respectfully submit that neither Joffe et al. nor Still et al., alone or in combination, teach or suggest all of the limitations in each of Claims 1, 17, and 31. For example, as discussed during the interview, neither Joffe et al. nor Still et al., alone or in combination, teach or suggest the following features of claims 1 and 17 in the context of the other limitations of the claim: “dynamically generating a web page that includes a selectable localized link to the determined preferred mirror instance through the server application at the first web server; and transmitting the dynamically generated web page from the first web server to the client terminal.” In addition, neither Joffe et al. nor Still et al., alone or in combination, teach or suggest the following features of claim 31 in the context of the other limitations of the claim: “the server application . . . for dynamically generating a web page that includes a selectable localized link to the determined preferred mirror instance through the server application at the first web server, and for transmitting the dynamically generated web page from the first web server to the user terminal.”

Moreover, both Joffe et al. and Still et al. teach away from the recitations of Claims 1, 17, and 31. First, Joffe et al. discloses that a “front-end component directs the client to the correct content server using an application layer protocol, preferably an HTTP redirect response in a step 419.” Col. 13, ll. 37-39. Accordingly, in Joffe et al., control over providing content, such as a web page including a selectable localized link, is being passed off to another web server. Still et al. discloses modification of all references to resources identified in an HTML result to point back to the original server or proxy receiving the client request, rather than to one or more other preferred mirror instances. See Col. 4, l. 46 – Col. 5, l. 5. Not only do Joffe et al. and Still et al. each teach away from the recitations in Claims 1, 17, and 31, the combination of Joffe et al. and Still et al. would result in an entirely different system (and method) than recited in the present claims.

Applicants also respectfully submit that the above-recited features are not taught or suggested by the other art of record.

For at least these reasons, applicants submit that Claims 1, 17, and 31 are patentable and respectfully request withdrawal of the rejection.

Rejected Claims Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are dependent on one of independent Claims 1, 17, or 31 discussed above. Accordingly, applicants submit that Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are allowable at least by virtue of this dependency, as well as by virtue of the other limitations set forth therein. Accordingly, applicants submit that Claims 2-4, 6-12, 14-16, 18-20, 22-23, 26-28, 30, 32-37, 40 and 42 are patentable over the cited prior art and respectfully request withdrawal of the rejection of these claims as well.

**B. Claims 5, 8, 9, 21, 24, 25, 39, 39 and 41 Are Not Obvious Over Joffe et al. in View of Still et al. and in further in view of either Farber et al., Swilden et al., or Lyer et al.**

As indicated above, Claims 5, 8, 9, 21, 24, 25, 39, 39 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Joffe et al. in view of Still et al. and further in view of either Farber et al., Swilden et al., or Lyer et al. Applicants respectfully traverse these rejections.

Rejected Claims 5, 8, 9, 21, 24, 25, 39, 39 and 41 are dependent on one of independent Claims 1, 17, or 31 discussed above as being patentable over the cited prior art. Accordingly, applicants submit that Claims 5, 8, 9, 21, 24, 25, 39, 39 and 41 are allowable at least by virtue of this dependency, as well as by virtue of the other limitations set forth therein. Accordingly, applicants submit that Claims 5, 8, 9, 21, 24, 25, 39, 39 and 41 are patentable over the cited prior art and respectfully request withdrawal of the rejection of these claims as well.

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### CONCLUSION

In view of the foregoing amendments and remarks, applicants submit that the application is now in condition for allowance.

By focusing on specific claims and claim limitations in the discussion above, applicants do not imply that other claim limitations in presently pending claims or in previously pending claims are disclosed or suggested by the references. In addition, any characterizations of claims and/or cited art are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by another prosecution. Accordingly, reviewers of this or any child or related prosecution history shall not reasonably infer that applicants have made any disclaimers or disavowals of any subject matter supported by the present disclosure.

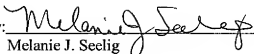
If any issues remain which can potentially be resolved by telephone, the Examiner is invited to call the undersigned attorney of record at her direct dial number listed below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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